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Lumbee Land Development, Inc., &
Lumbee Tribe Holdings, Inc.

8
9 **IN THE UNITED STATES DISTRICT COURT**

10 **FOR THE DISTRICT OF NEVADA**

11 SAEID SAM KANGARLOU,

12 Plaintiffs,

13 v.

14 ALTON AL LOCKLEAR; LUMBEE LAND
DEVELOPMENT, INC.; LUMBEE TRIBE
15 HOLDINGS, INC.

16 Defendants.

CASE NO.: 2:18-CV-02286-JAD-BNW

**JOINT MOTION TO EXTEND CASE
STAY**

[THIRD REQUESTED STAY]

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18 PLAINTIFF, SAIED KANGARLOU, Defendant, ALTON “AL” LOCKLEAR
19 (“Locklear”) and Defendants, LUMBEE LAND DEVELOPMENT, INC. and LUMBEE TRIBE
20 HOLDINGS, INC., by and through their respective counsel, hereby jointly move this Court to
21 extend the current discovery stay in this matter. The Parties have stipulated to extend the stay as
22 detailed in this Motion.

23 Pursuant to LR IA 6-1(b), the Parties aver that this is the third such discovery stay
24 requested in this matter.

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **INTRODUCTION**

4 This matter involves claims of personal injury by Saeid Sam Kangarlou (hereinafter
5 “Plaintiff”) from an alleged battery at The Mirage Hotel & Casino on or about December 5,
6 2016. Plaintiff alleges that Alton Locklear attacked him while they were playing at an
7 automated craps machine. Plaintiff alleges he sustained a variety of injuries which required
8 significant treatment.

9 On March 5, 2021, this Court entered a Scheduling Order setting a discovery deadline
10 for August 17, 2021. On September 10, 2022, this Court entered an Order extending the
11 discovery deadlines with discovery closing on February 14, 2022. Since that time, the Parties
12 have been diligently conducting discovery.

13 On February 4, 2022, Defendants filed a Joint Motion to Enforce Settlement Agreement.
14 As a result of the pending settlement, the Parties did not complete discovery. On August 11,
15 2022, the Court issued a Report and Recommendations denying the Motion to Enforce.

16 Following this ruling, Plaintiff and Defendants both filed Motions requesting that this
17 Court stay this matter as Plaintiff underwent brain surgery and was recovering from brain
18 surgery. [ECF Nos. 87, 89, 91, and 92]. The Court granted the stay and ordered the Parties to
19 follow-up on or before January 5, 2023 to advise whether a third stay would be necessary given
20 Plaintiff’s health. [ECF Nos. 91 and 92] The Parties initially believed that discovery could
21 resume, but following a meet and confer regarding case status and discovery issues on January
22 9, 2023, the Parties agreed a stay was appropriate as Plaintiff recently learned he would be
23 undergoing another operation on February 7, 2023. As such, the Parties file the instant motion
24 to inform the Court that Plaintiff is still recovering from his health issues and that he will be
25 undergoing another surgery, and thus, the stay in this matter should be extended until March 5,
26 2023.

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1 II.

2 **STATEMENT OF FACTS**

3 1. On or about December 5, 2016, Plaintiff was a guest at The Mirage Hotel and
4 Casino in Las Vegas, Nevada. *See* Plaintiff's Amended Complaint [ECF No. 12]. At
5 approximately 7:00 p.m., Plaintiff sat down at an automated craps machine located on the
6 casino floor and began playing. *Id.* Plaintiff continued to play the craps machine with many
7 other guests for several hours. *Id.*

8 2. The Amended Complaint alleges that at approximately 11:00 p.m., Alton
9 Locklear, allegedly sat down and began playing craps at the same automated craps machine
10 where Plaintiff was playing for several hours. *Id.* While playing craps, Mr. Locklear allegedly
11 consumed multiple alcoholic beverages and became inebriated. *Id.* After allegedly losing
12 hundreds of dollars gambling, Mr. Locklear became aggressive with Plaintiff. *Id.* Mr. Locklear
13 allegedly blamed Plaintiff for his gambling losses. *Id.* at 4. Then, without warning, Mr. Locklear
14 allegedly punched Plaintiff in the face and knocked him to the ground. *Id.* Mr. Locklear then
15 allegedly jumped onto Plaintiff's back and continued striking Plaintiff in the head until another
16 patron stopped Mr. Locklear. *Id.*

17 3. Due to the alleged attack, Plaintiff alleges he sustained injuries "to his face, head,
18 hands, knee, back, tooth, ribs, stomach, and chest." *Id.* Plaintiff also had complaints of blurred
19 vision. *Id.* Based upon these alleged injuries, emergency medical services transported Plaintiff
20 to Sunrise Hospital where he underwent treatment. *Id.* After doctors released him from the
21 hospital, Plaintiff continued to undergo treatment and met with several specialists due to his
22 alleged injuries. *Id.*

23 4. At the time of the alleged attack Mr. Locklear was allegedly representing the
24 Lumbee Tribe of North Carolina at the 2016 National American Indian Housing Counsel's
25 annual symposium at The Mirage. *Id.* at 3. Additionally, Mr. Locklear was also allegedly
26 representing Lumbee Land Development, Inc. *Id.* Finally, Lumbee Tribe Holdings, Inc.
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1 allegedly sponsored Mr. Locklear's trip. *Id.* On or about December 22, 2021, Plaintiff contacted
2 Defendant's counsel indicating that wanted to pursue settlement in this case.

3 5. On March 5, 2021, this Court entered a Scheduling Order setting a discovery
4 deadline for August 17, 2021. [ECF No. 46]. The Court further stayed discovery in this matter
5 until May 4, 2021, due to Plaintiffs refusal to participate in the Rule 26(f) Conference and
6 ordered Plaintiff to file a notice with the Court stating whether he intends to continue
7 prosecuting his claims. *Id.* at 7.

8 6. On September 10, 2022, this Court entered an Order extending the discovery
9 deadlines with discovery closing on February 14, 2022. [ECF No. 81].

10 7. On February 4, 2022, Defendants filed a Joint Motion to Enforce Settlement
11 Agreement ("Motion To Enforce"). [ECF No. 83]. On August 11, 2022, the Court issued a
12 Report and Recommendations denying the Motion to Enforce. [ECF No. 86].

13 8. On August 25, 2022 the Parties filed Motions to Stay this matter as Plaintiff was
14 scheduled to undergo brain surgery. [ECF No. 87 and 89]

15 9. On September 6, 2022, this Court granted the Parties stay and informed the
16 Parties that if additional time was necessary for Plaintiff to recuperate that the Parties should
17 submit a request by no later than December 5, 2022. [ECF No. 90]

18 10. On October 6, 2022, Plaintiff underwent surgery for removal of a pituitary brain
19 tumor and a deviated septum. (*See*, correspondence from Plaintiff to Defendants dated
20 December 1, 2022, a true and correct copy is attached hereto as Exhibit "1").

21 11. On December 5, 2022, because of additional health issues, Plaintiff requested
22 that Defendants agree to stay this matter for an additional thirty (30) days. (*Id.*).

23 12. On December 6, 2022, the Court granted the Parties Joint Motion to Extend Stay.
24 [ECF No. 92]

25 13. On January 3, 2023 and January 4, 2023, the Parties exchanged communications
26 regarding the stay and possible continuation of discovery. (*See*, correspondence from Plaintiff to
27 Defendants dated January 4, 2023, a true and correct copy is attached hereto as Exhibit "2").
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14. To address discovery issues that may arise during the course of the reopened discovery the Parties engaged in a meet and confer on January 9, 2023. (*See*, correspondence from Plaintiff to Defendants regarding issues addressed during January 9, 2023 meet and confer, a true and correct copy is attached hereto as Exhibit “3”).

15. During this meet and confer, Plaintiff informed Defendants that he would be undergoing a hernia surgery on February 7, 2023. Plaintiff learned that he would be undergoing this surgery on or about January 6, 2023. Plaintiff expected his recovery to last a few days, but there was some uncertainty in this regard. (*Id.*).

16. Based upon Plaintiff’s current health concerns and the upcoming surgery, the Parties agreed to continue the stay for this matter. Defendants believed sixty (60) days would be appropriate given Plaintiff’s health issues. Plaintiff was unwilling to stipulate to a specific number of days as he did not want this Court to believe he was prolonging this litigation, but agreed that a stay was appropriate. (*Id.*).

III.

MOTION TO EXTEND STAY

“A district court has discretionary power to stay proceedings in its own court under *Landis v. North American Co.*, 299 U.S. 248, 254 (1936).” *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1109 (9th Cir. 2005). In deciding whether to grant a stay, the Ninth Circuit weighs “the competing interests which will be affected[.]” *Id.* (quoting *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962)). These factors include: (1) “the possible damage which may result from the granting of a stay”; (2) “the hardship or inequity which a party may suffer in being required to go forward”; and (3) “the orderly course of justice measured in terms of the simplifying or complicating of issues, proof, and questions of law which could be expected to result from a stay.” *Id.*

Damage would not result from this stay. This Court previously granted the stay for this matter as Plaintiff was scheduled to undergo brain surgery. Plaintiff in fact underwent two

1 surgeries on October 6, 2022 and has since been recovering. Following these surgeries, in early
2 December 2022, the Court granted a second stay until January 5, 2023 as Plaintiff was still
3 recovering from his surgeries. As such, no Parties would be damaged by continuing the stay.

4 Plaintiff would face hardship if the stay were not extended. Plaintiff is still recovering
5 from his October 2022 surgeries. Additionally, Plaintiff is scheduled to undergo another surgery
6 related to a hernia on February 7, 2023. Thus, Defendants and Plaintiff will experience hardship
7 if the Court denies the requested stay and is forced to litigate this matter through his health
8 issues. Additionally, there are concerns that Plaintiff's health may be compromised if he is
9 forced to participate in litigation whilst recovering from his hernia surgery. This forced
10 participation would also certainly prejudice Plaintiff and his abilities to prosecute his claims.

11 The stay would promote an orderly course of justice. As I am sure this Court is aware,
12 Plaintiff is representing himself in this matter. To promote justice, Plaintiff needs to be healthy
13 and capable of participating in litigation. By granting the requested stay, this Court would be
14 promoting justice by providing Plaintiff with ample time to heal so that he may effectively
15 represent himself.

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IV.

CONCLUSION

Based upon the foregoing points and authorities, the Parties respectfully request that the Court stay discovery for an additional thirty (60) days until March 5, 2023.

IT IS SO STIPULATED.

DATED this 10th day of January, 2023.

DATED this 11th day of January, 2023.

ALBRIGHT, STODDARD, WARNICK & RESNICK & LOUIS, P.C.

ALBRIGHT

/s/ Daniel Ormsby

/s/ Paul A. Acker

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Attorneys for Defendants,
Lumbee Land Development, Inc., & Lumbee
Tribe Holdings, Inc.

DATED this 10th day of January 2023.

/s/ Saeid Kangarlou

PLAINTIFF, SAIED KANGARLOU

ORDER

IT IS ORDERED that ECF No. 93 is GRANTED.

IT IS FURTHER ORDERED that the parties' Discovery Plan and Scheduling Order is due on March 24, 2023.

IT IS SO ORDERED

DATED: 4:11 pm, January 12, 2023


BRENDA WEKSLER
UNITED STATES MAGISTRATE JUDGE

From: [Daniel Ormsby](#)
To: [Thomas Maroney](#); [Saeid Kangarlou](#); [Shyanne Jackson](#); [Mark Albright](#)
Cc: [Paul Acker](#)
Subject: RE: Kangarlou v. Locklear et al.- Scheduling Order
Date: Tuesday, January 10, 2023 3:27:59 PM
Attachments: [image002.png](#)
[image004.png](#)

I have no objections or revisions to this proposed joint motion.

Daniel R. Ormsby, Esq.

AS Albright Stoddard
Warnick & Albright

Phone (702) 384-7111 / Fax (702) 384-0605

From: Thomas Maroney <tmaroney@rlattorneys.com>
Sent: Tuesday, January 10, 2023 2:38 PM
To: Saeid Kangarlou <saeid1953@hotmail.com>; Shyanne Jackson <sjackson@rlattorneys.com>; Daniel Ormsby <dormsby@albrightstoddard.com>; Mark Albright <gma@albrightstoddard.com>
Cc: Paul Acker <packer@rlattorneys.com>
Subject: RE: Kangarlou v. Locklear et al.- Scheduling Order

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good afternoon all:

Please find attached the proposed Joint Motion to Continue the Discovery Stay in this matter. Please let me know if you have any comments, concerns, or proposed revisions. If there are no issues, please advise whether we have permission to affix your e-signature and submit to the Court.

Thank you for your attention to this matter.

From: Saeid Kangarlou <saeid1953@hotmail.com>
Sent: Tuesday, January 10, 2023 10:05 AM
To: Thomas Maroney <tmaroney@rlattorneys.com>; Shyanne Jackson <sjackson@rlattorneys.com>; Daniel Ormsby <dormsby@albrightstoddard.com>; Mark Albright <gma@albrightstoddard.com>
Cc: Paul Acker <packer@rlattorneys.com>
Subject: Re: Kangarlou v. Locklear et al.- Scheduling Order

Please see attachment
Saeid Kangarlou

From: Thomas Maroney <tmaroney@rlattorneys.com>
Sent: Monday, January 9, 2023 9:57 AM
To: Saeid Kangarlou <saeid1953@hotmail.com>; Shyanne Jackson <sjackson@rlattorneys.com>;

From: [Saeid Kangarlou](#)
To: [Thomas Maroney](#); [Shyanne Jackson](#); [Daniel Ormsby](#); [Mark Albright](#)
Cc: [Paul Acker](#)
Subject: Re: Kangarlou v. Locklear et al.- Scheduling Order
Date: Tuesday, January 10, 2023 5:58:20 PM
Attachments: [image001.png](#)
[image002.png](#)

I have no issues with this extension Motion. You can use my signature electronically for the purpose of this stipulation on this Motion.

Saeid Kangarlou
Plaintiff in Proper Person

From: Thomas Maroney <tmaroney@rlattorneys.com>
Sent: Tuesday, January 10, 2023 2:37 PM
To: Saeid Kangarlou <saeid1953@hotmail.com>; Shyanne Jackson <sjackson@rlattorneys.com>; Daniel Ormsby <dormsby@albrightstoddard.com>; Mark Albright <gma@albrightstoddard.com>
Cc: Paul Acker <packer@rlattorneys.com>
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Thank you for your attention to this matter.

From: Saeid Kangarlou <saeid1953@hotmail.com>
Sent: Tuesday, January 10, 2023 10:05 AM
To: Thomas Maroney <tmaroney@rlattorneys.com>; Shyanne Jackson <sjackson@rlattorneys.com>; Daniel Ormsby <dormsby@albrightstoddard.com>; Mark Albright <gma@albrightstoddard.com>
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Cc: Paul Acker <packer@rlattorneys.com>
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